IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FOURTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 13680 of 2004

Between:

P. Swamy Das S/o late P. Ramulu
R/o Uppuguda, Hyderabad

..... PETITIONER

AND

The Chief Executive Officer Andhra Pradesh State Wakf Board,

Nampally, Hyderabad

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue of Writ of Mandamus or any other appropriate Writ, order or direction more particularly Writ of Mandamus directing the respondent and his subordinates not to interfere with day to day business activities of petitioner and not to dispossess petitioner shop without following due process of law in the interest of justice.

Counsel for the Petitioner: MR.J.P.SRIKANTH

Counsel for the Respondent: MR.A.M.QURESHI (SC FOR AP WAKF BOARD)

The Court at the stage of admission made the following :

ORDER:

Heard the learned counsel for the petitioner and the learned standing counsel appearing for the respondent.

The petitioner states that he is running a small business in a shop which is situated on a Government land. The allegation is that the respondent-Wakf Board claiming that the said land belongs to the Wakf Board and alleging that the petitioner has encroached upon the same, has initiated proceedings under Section 54 of the Wakf Act. The petitioner was served with a show cause notice dated 23.6.2004 issued under Section 54(1) of the Wakf Act, 1995 calling upon the petitioner to show cause as to why an order to remove the encroachment should not be made under Section 54(3) of the Wakf Act. The petitioner states that he has already submitted an explanation. However, it is stated that even before any order is passed under Section 54(3) of the Wakf Act, the respondents are attempting to remove the shop of the petitioner and thus interfering with his possession. Hence, this writ petition seeking a declaration that the action of the respondents is arbitrary and illegal.

The learned standing counsel for the respondent states that so far no order has been passed under Section 54(3) of the Wakf Act, 1995.

Under these circumstances, the respondents are directed not to interfere with the possession of the petitioner until an order is passed after considering the explanation of the petitioner under Section 54(3) of the Wakf Act.

The writ petition is accordingly disposed of. No order as to costs.

G. ROHINI, J.

04th August 2004

Note: Issue C.C. by tomorrow

(B/o)

Tsr.

To

1. The Chief Executive Officer Andhra Pradesh State Wakf Board,

Nampally, Hyderabad

2. Two CD copies.